DR. AMBEDKAR: THE PRINCIPAL ARCHITECT OF THE CONSTITUTION OF INDIA

Clause wise Discussion on the Draft Constitution

15th November 1948 to 8th January 1949
SECTION FOUR

Democracy defined

Democracy is a form and a method of Government whereby revolutionary changes in the economic and social life of people are brought about without bloodshed.
-from Dr. Ambedkar's address at Poona District Law Library on December 22, 1952.

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PART VI

ARTICLE 61

Mr. Vice-President: Dr. Ambedkar.

Shri Lakshminarayan Sahu : (Orissa : General) : Sir, this is a very important article on which I would like to.....

Mr. Vice-President : I know there are many Members who would like to speak on this article, but the time at the disposal of the House is extremely limited and I also feel that it has been sufficiently debated on.

Shri Lakshminarayan Sahu: But, Sir.....

Mr. Vice-President: Kindly do not try to over-rule the Chair. Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar: Mr. Vice-President, Sir, I am sorry I cannot accept any of the amendments which have been tabled, either by Mr. Baig or Mr. Tahir or Prof. K. T. Shah. In reply to the point that they have made in support of the amendments they have moved, I would like to state my position as briefly as I can.

Mr. Mahboob Ali baig's amendment falls into two parts. The first part of his amendment seeks to fix the number of the Cabinet Ministers. According to him they should be fifteen. The second part of his proposition is that the Members of the Cabinet must not beappointed by the Prime Minister or the President on the advice of the Prime Minister but should be chosen by the House by proportional representation.

Now, Sir, the first part of his amendment is obviously impracticable. It is not possible at the very outset to set out a fixed number for the Cabinet. It may be that the Prime Minister may find it possible to carry on the administration of the country with a much less number than fifteen. There is no reason why the Constitution should burden him with fifteen Ministers when he does not want as many as are fixed by the Constitution. It may be that the business of the Government may grow so enormously big that fifteen may be too small a number. There may be the necessity of appointing more members than fifteen. There again it will be wrong on the part of the Constitution to limit the number of Ministers and to prevent him from appointing such number as the requirements of the case may call upon to do so.

With regard to the second amendment, namely, that the Ministers should not

he appointed by the President on the advice of the Prime Minister, but should be chosen by preportional representation, I have not been able to understand exactly what is the underlying purpose he has in mind. So far I was able to follow his arguments, he said the method prescribed in the Draft Constitution was undemocratic. Well, I do not understand why it is undemocratic to permit a Prime Minister, who is chosen by the people, to appoint Ministers from a House which is also chosen on adult suffrage, or by people who are chosen on the basis of adult suffrage. I fail to understand why that system is undemocratic. But I suspect that the purpose underlying his amendment is to enable minorities to secure representation in the Cabinet. Now if that is so, I sympathise with the object he has in view, because I realise that a great deal of good administration, so to say, depends upon the fact as to in whose hands the administration vests. If it is controlled by a certain group, there is no doubt about it that the administration will function in the interests of the group represented by that particular body of people in

control of administration. Therefore, there is nothing wrong in proposing that the method of choosing the Cabinet should be such that it should permit members of the minority communities to be included in the cabinet. I do not think that that aim is either unworthy or there is something in it to be ashamed of. But I would like to draw the attention of my friend, Mr. Mahboob Ali Baig, that his purpose would be achieved by an addition which the Drafting Committee proposes to make of a schedule which is called Schedule 3-A. It will be seen that we have in the Draft Constitution introduced one schedule called Schedule 4 which contains the Instrument of Instructions to the Governor as to how he has to exercise his discretionary powers in the matter of administration. We have analogous to that, decided to move an amendment in order to introduce another schedule which also contains a similar Instrument of Instructions to the President. One of the clauses in the proposed Instrument of Instruction will be this :

" In making appointment to his Council of Ministers, the President shall use his best endeavours to select his Ministers in the following manner, that is to say, to appoint a person who has been found by him to be most likely to command a stable majority in Parliament as the Prime Minister, and then to appoint on the advice of the Prime Minister those persons, including so far as practicable, members of minority communities, who will best be in a position collectively to command the confidence of Parliament."

I think this Instrument of Instructions will serve the purpose, if that is the purpose which Mr. Mahboob Ali Baig has in his mind in moving his amendment. I do not think it is possible to make any statutory provision for the inclusion of members of particular communities in the cabinet. That, I think, would not be possible, in view of the fact that our Constitution, as proposed, contains the principle of collective responsibility, and there is no use foisting upon the Prime Minister a colleague simply because he happens to be the member of a particular minority community, but who does not agree with the fundamentals of the policy which the Prime Minister and his party have committed themselves to.

Coming to the amendment of my friend, Mr. Tahir, he wants to lay down that the President shall not be bound to accept the advice of the Ministers where he has discretionary functions to perform. It seems to me that Mr. Tahir has merely bodily copied Section 50 of the Government of India Act before it was adopted. Now, the provision contained in Section 50 of the Government of India Act as it originally stood was perfectly legitimate, because under that Act the Governor-General was by law and statute invested with certain discretionary functions, which are laid down in Sections 11,12,19 and several

other parts of the Constitution. Here, so far as the Governor-General is concerned, he has no discretionary functions at all. Therefore, there is no case which can arise where the President would be called upon to discharge his functions without the advice of the Prime Minister or his cabinet. From that point of view the amendment is quite unnecessary. Mr. Tahir has failed to realise that all that the President will have under the new Constitution will be certain prerogatives but not functions and there is a vast deal of difference between prerogatives and functions as such.

Under a parliamentary system of Government, there are only two prerogatives which the King or the Head of the State may exercise. One is the appointment of the Prime Minister and the other is the dissolution of Parliament. With regard to the Prime Minister it is not possible to avoid vesting the discretion in the President. The only other way by which we could provide for the appointment of the Prime Minister without vesting the authority or the discretion in the President, is to require that it is the House which shall in the first instance choose its leader, and then on the choice being made by a motion or a resolution, the President should proceed to appoint the Prime Minister.

Mr. Mohd. Tahir : On a point of order, how will it explain the position of the Governors and the Ministers of the State where discretionary powers have been allowed to be used by the Governors ?

The Honourable Dr. B. R. Ambedkar: The position of the Governor is exactly the same as the position of the President, and I think I need not over-elaborate that at the present moment because we will consider the whole position when we deal with the State Legislatures and the Governors. Therefore, in regard to the Prime Minister, the other thing is to allow the House to select the leader, but it seems that that is quite unnecessary. Supposing the Prime Minister made the choice of a wrong person either because he had not what is required, namely, a stable majority in the House, or because he was *a persona non-grata* with the House : the remedy lies with the House itself, because the moment the Prime Minister is appointed by the President, it would bepossible for the House or any Member of the House, or a party which is opposed to the appointment of that particular individual, to table a motion of no-confidence in him and get rid of him altogether if that is the wish of the House. Therefore, one way is as good as the other and it is therefore felt desirable to leave this matter in the discretion of the President.

With regard to the dissolution of the House there again there is not any definite opinion so far as the British constitutional lawyers are concerned. There is a view held that the President, or the King, must accept the advice of the Prime Minister for a dissolution if he finds that the House has become

recalcitrant or that the House does not represent the wishes of the people. There is also the other view that notwithstanding the advice of the Prime Minister and his Cabinet, the President, if he thinks that the House has ceased to represent the wishes of the people, can *suo moto* and of his own accord dissolve the House.

I think these are purely prerogatives and they do not come within the administration of the country and as such no such provision as Mr. Tahir has suggested in his amendment is necessary to govern the exercise of the prerogatives.

Now, Sir, I come to the amendments of Prof. K. T. Shah. It is rather difficult for me to go through his long amendments and to extract what is really the summun *bonum* of each of these longish paragraphs. I have gone through them and I find that Prof. K. T. Shah wants to propose four things. One is that he does not want the Prime Minister, at any rate by statute. Secondly, he wants that every Minister on his appointment as Minister should come forward and seek a vote of confidence of the Legislature. His third proposition is that a person who is appointed as a Minister, if he does not happen to be an elected Member of the House at the time of his appointment, must seek election and be a Member within six months. His fourth proposition is that no person who has been convicted of bribery and corruption and so on and so forth shall be appointed as a Minister.

Now, Sir, I shall take each of these propositions separately. First, with regard to the Prime Minister, I have not been able to understand why, for instance. Prof. K. T. Shah thinks that the Prime Minister ought to be eliminated. If I understood him correctly, he thought that he had no objection if by convention a Prime Minister was retained as part of the executive. Well, if that is so, if Prof. K. T. Shah has no objection for convention to create a Prime Minister, I should have thought there was hardly any objection to giving statutory recognition to the position of the Prime Minister.

In England, too, as most students of constitutional law will remember, the Prime Minister was an office which was recognised only by convention. It is only in the latter stages when the Act to regulate the salaries of the Ministers of Cabinet was enacted. I believe in 1939 or so, that a statutory recognition was given to the position of the Prime Minister. Nonetheless, the Prime Minister existed.

I want to tell my friend Prof. K. T. Shah that his amendment would be absolutely fatal to the other principle which we want to enact, namely collective responsibility. All Members of the House are very keen that the Cabinet should work on the basis of collective responsibility and all agree that that is a very sound principle. But I do not know how many Members of the

House realise what exactly is the machinery by which collective responsibility is enforced. Obviously, there cannot be a statutory remedy. Supposing a Minister differed from other Members of the Cabinet and gave expression to his views which were opposed to the views of the Cabinet, it would be hardly possible for the law to come in and to prosecute him for having committed a breach of what might be called collective responsibility. Obviously, there cannot be a legal sanction for collective responsibility. The only sanction through which collective responsibility can be enforced is through the Prime Minister. In my judgement collective responsibility is enforced by the enforcement of two principles. One principle is that no person shall be nominated to the Cabinet except on the advice of the Prime Minister. Secondly, no person shall be retained as a member of the cabinet if the Prime Minister says that he shall be dismissed. It is only when Members of the Cabinet both in the matter of their appointment as well as in the matter of their dismissal are' placed under the Prime Minister, that it would be possible to realise our ideal of collective responsibility. I do not see any other means or any other way of giving effect to that principle.

Supposing you have no Prime Minister, what would really happen ? What would happen is this, that every Minister will be subject to the control or influence of the President. It would be perfectly possible for the President who is not *ad idem* with a particular Cabinet, to deal with each Minister separately, singly, influence them and thereby cause disruption in the Cabinet. Such a thing is not impossible to imagine. Before collective responsibility was introduced in the British Parliament you remember how the English King used to disrupt the British Cabinet. He had what was called a Party of King's Friends both in the cabinet as well as in Parliament. That sort of thing was put a stop to by collective responsibility. As I said, collective responsibility can be achieved only through the instrumentality of the Prime Minister. Therefore, the Prime Minister is really the keystone of the area of the Cabinet and unless and until we create that office and endow that office with statutory authority to nominate and dismiss Ministers there can be no collective responsibility.

Now, Sir, with regard to the second proposition of my friend Prof. K. T. Shah that a Minister on appointment should seek a vote of confidence. I am sure that Prof. K. T. Shah will realise that there is no necessity for any such provision at all. It is true that in the early history of the British Cabinet every person who, notwithstanding the fact that he was a Member of Parliament, if he was appointed a Minister, was required to resign his seat in Parliament and to seek re-election because it was felt that a person if he is appointed a Minister will likely to be under the influence of the Crown and do things in a manner not justified by public interest. The British themselves have now given

up that system; by a statute they abrogated that rule and no person or Member of Parliament who is appointed a Minister is now required to seek re-election. That provision, therefore, is quite unnecessary. As I explained a little while ago, if the Prime Minister does happen to appoint a Minister who is not wortby of the post, it would be perfectly possible for the Legislature to table a motion of no confidence either in that particular Minister or in the whole Ministry and thereby get rid of the Prime Minister or of the Minister if the Prime Minister is not prepared to dismiss him on the call of the Legislature. Therefore, my submission is that the second proposition of Prof. K. T. Shah is also unnecessary.

With regard to his third proposition, *viz.,* that if a person who is appointed a member of the Cabinet is not a member of the Legislature, he must become a member of the Legislature within six months, I may point out that this has been provided for in article 62(5). This amendment is therefore unnecessary.

His last proposition is that no person who is convicted may be appointed a Minister of the State. Well, so far as his intention is concerned, it is no doubt very laudable and I do not think any Member of this House would like to differ from him on that proposition. But the whole question is this: whether we should introduce all these qualifications and disqualifications in the Constitution itself. Is it not desirable, is it not sufficient that we should trust the Prime Minister, the Legislature and the public at large watching the actions of the Ministers and the actions of the Legislature to see that no such infamous thing is done by either of them ? I think this is a case which may eminently be left to the good-sense of the Prime Minister and to the good sense of the Legislature with the general public holding a watching brief upon them. I therefore say that these amendments are unnecessary.

Shri H. V. Kamath : I am afraid Dr. Ambedkar has lost sight of amendment No. 47 in List IV of the fifth Week.

Mr. Vice-President : He is not bound to reply to everything. The 'reply to that amendment has been given by Mr. Tajarnul Husain.

The Honourable Dr. B. R. Ambedkar : That does not require any reply. All that has to be left to the Prime Minister.

Mr. Vice-President : I will now put the amendments, one by one, to vote.

[All 5 amendments were negatived. Article 61 was adopted and added to the Constitution.]

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ARTICLE 62

Mr. Vice-President : (Dr. H. C. Mookherjee) : We shall now resume

discussion of article 62.

(Amendments Nos. 1310 and 1311 were not moved.) Nos. 1312 and 1329 are of similar import. No. 1329 may be moved. Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : (Bombay : General) : Sir,

I move:

" That after clause (5) of article 62 the following new clause *he* inserted

' (5) (a) In the choice of his Ministers and the exercise of his other functions under this Constitution, the President shall be generally guided by the instructions set out in Schedule III-A, but the validity of anything done by the President shall not be called in question on the ground that it was done otherwise than in accordance with such instructions.' "

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Shri Mahavir Tyagi : .. .Then there is the amendment of Prof. Shah in which he says that Ministers should know the English language for ten years, and Hindi after the next ten years. I happen to be an anarchist by faith so far as literacy is concerned, I do not believe in the present-day education. I am opposed to the notion of literacy also, even though it has its own value. If I were a boy now, I would refuse to read and write. As it was, I practically refused to read and write and .hence I am a semi-literate. The majority in India are illiterate persons. Why should they be denied their share in the administration of the country ? I wonder, why should literacy be considered as the supreme achievement of men. Why should it be made as the sole criterion for entrusting the governance of a country to a person, and why Art, Industry, Mechanics, Pbysique or Beauty be not chosen as a better criterion. Ranjit Singh was not literate. Shivaji was not literate. Akbar was not much of a literate. But all of them were administering their States very well. I submit. Sir, that we should not attach too much importance to literacy. I ask Dr. Ambedkar, does he ever write ? Probably he has got writers to write for him and readers to read to him. I do not see why Ministers need read and write. Whenever they want to write anything, they can use typists. Neither reading nor writing is necessary. What is necessary is initiative, honesty, personality, integrity, intelligence and sincerity. These are the qualifications that a man should have to become a Minister. It is not literacy which is important.

Shri H. V. Kamath : Does my redoubtable friend want to keep India as illiterate as she is today ?

The Honourable Dr. B. R. Ambedkar : Have you any conscientious objection against literacy ?

Shri Mahavir Tyagi: No, Sir.

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The Honourable Dr. B. R. Ambedkar: Mr. Vice-President, of the amendments that have been moved I am prepared to accept amendment No. 1322 and 1326 as amended by No. 71 on List V. As to the rest of the amendments I should just like to make a sort of running commentary.

These amendments raise three points. The first point relates to the term of a Minister, the second relates to the qualifications of a Minister and the third relates-to condition for membership of a Cabinet.-1 shall take the first point for consideration, *viz.,* the term of a Minister. On this point there are two amendments, one by Mr. Pecker and the other by Mr. Karimuddin. Mr. Pecker's amendment is that the Minister shall continue in office so long as he continues to enjoy the confidence of the House, irrespective of other considerations. He may be a corrupt minister, he may be a bad minister, he may be quite incompetent, but if he happened to enjoy the confidence of the House then nobody shall be entitled to remove him from office. According to Mr. Karimuddin, the position that he has taken, if I have understood him correctly, is just the opposite. His position seems to be that the Minister shall be liable to removal only on impeachment for certain specified offences such as bribery, corruption, treason and so on, irrespective of the question whether he enjoys the confidence of the House or not. Even if a minister lost the confidence of the House, so long as there was no impeachment of that Minister on the grounds that he has specified, it shall not be open either to the Prime Minister or the President to remove him from office. As the Honourable House will see both these amendments are in a certain sense inconsistent, if not contradictory. My submission is that the provision contained in sub-clause (2) of article 62 is a much better provision and covers both the points. Article 62, (2) states that the ministers shall hold office during the pleasure of the President. That means that a Minister will be liable to removal on two grounds. One ground on which he would be liable to dismissal under the provisions contained in sub-clause (2) of article 62 would be that he has lost the confidence of the House, and secondly, that his administration is not pure, because the word used here is " pleasure ". It would be perfectly open under .that particular clause of article 62 for the President to call for the removal of a particular Minister on the ground that he is guilty of corruption or bribery or mal-administration, although that particular Minister probably is a person who enjoyed the confidence of the House. I think Honourable Members will realise that the tenure of a Minister must be subject not merely to one condition but to two conditions and the two conditions are purity of administration and confidence of the House. The article makes provision for both and therefore

the amendments moved by my Honourable Friends, Messrs. Pocker and Karimuddin are quite unnecessary.

With regard to the second point, namely, the qualifications of Ministers, we have three amendments. The first amendment is by Mr. Mohd. Tahir. His suggestion is that no person should be appointed a Minister unless at the time of his appointment he is an elected member of the House. He does not admit the possibility of the cases covered in the proviso, namely, that although a person is not at the time of his appointment a. member of the House, he may nonetheless be appointed as a Minister in the cabinet subject to the condition that within six months he shall get himself elected to the House. The second qualification is by Prof. K. T. Shah. He said that a Minister should belong to a majority party and his third qualification is that he must have a certain educational status. Now, with regard to the first point, namely, that no person shall be entitled to be appointed a Minister unless he is at the time of his appointment an elected member of the House. I think it forgets to take into consideration certain important matters which cannot be overlooked. First is this.—it is perfectly possible to imagine that a person who is otherwise competent to hold the post of a Minister has been defeated in a constituency for some reason which, although it may be perfectly good, might have annoyed the constituency and he might have incurred the displeasure of that particular constituency. It is not a reason why a member so competent as that should be not permitted to be appointed a member of the cabinet on the assumption that he shall be able to get himself elected either from the same constituency or from another constituency. After all, the privilege that is permitted is a privilege that extends only for six months. It does not confer a right to that individual to sit in the House without being elected at all. My second submission is this, that the fact that a nominated Minister is a member of the cabinet, does not either violate the principle of collective responsibility nor does it violate the principle of confidence, because if he is a member of the Cabinet, if he is prepared to accept the policy of the Cabinet, stands part of the Cabinet and resigns with the Cabinet, when he ceases to have the confidence of the House his membership of the Cabinet does not in any way cause any inconvenience or breach of the fundamental principles on which parliamentary government is based. Therefore, this qualification, in my judgement, is quite unnecessary.

With regard to the second qualification, namely, that a member must be a member of the majority party, I think Prof. K. T. Shah has in contemplation or believes and hopes that the electorate will always return in the election a party which will always be in majority and another party which will be in a minority but in opposition. Now, it is not permissible to make any such

assumption. It would be perfectly possible and natural, that in an election the Parliament may consist of various number of parties, none of which is in a majority. How is this principle to be invoked and put into operation in a situation of this sort where there are three parties none of which has a majority ? Therefore, in a contingency of that sort the qualification laid down by Prof. K. T. Shah makes government quite impossible.

Secondly, assuming there is a majority party in the House, but there is an emergency and it is desired both on the part of the majority party as well as on the part of the minority party that party quarrels should stop during the period of the emergency, that there shall be no party Government, so that Government may be able to meet an emergency— in that event, again, no such situation can be met except by a coalition Government and if a coalition Government takes the place, *ex bypothesi* the members of a minority party must be entitled to become members of the Cabinet. Therefore, I submit that on both these grounds this amendment is not -a practicable amendment.

With regard to the educational qualification, notwithstanding what my friend Mr. Mahavir Tyagi has said on the question of literary qualification, when I asked him whether in view of the fact that he expressed himself so vehemently against literary qualification whether he has any conscientious objection to literary education, he was very glad to assure me that he has none. All the same, I wonder whether there would be any Prime Minister or President who would think it desirable to appoint a person who does not know English, assuming that English remains the official language of the business of the Executive or of Parliament. I cannot conceive of such a thing. Supposing the official language was Hindi, Hindustani or Urdu—whatever it is— in that event, I again find it impossible to think that a Prime Minister would be so stupid as to appoint a Minister who did not understand the official language of the country or of the Administration and while therefore it is no doubt a very desirable thing to bear in mind that persons who would hold a portfolio in the Government should have proper educational qualification, I think it is, rather unnecessary to incorporate this principle in the Constitution itself.

Now, I come to the third condition for the membership of a Cabinet and that is that there should be a declaration of the interests, rights and properties belonging to a Minister before he actually assumes office. This amendment moved by Prof. K. T. Shah is to some extent amended by Mr. Kamath. Now, this is not the first time that this matter has been debated in the House. It was debated at the time when similar amendments were moved with regard to the article dealing with the appointment and oath of the President and I have had a great deal to say about it at that particular time and I do not wish to repeat

what I said then on this occasion. My Friend Mr. Kamath reminded me of what I said on the occasion when the article dealing with the President was debated in this House and I do remember that I did say that such a provision might be necessary.....

Shri H. V. Kamath : May I remind Dr. Ambedkar of what exactly he said ? I am reading from the official type-script of the Assembly Secretariat. These are his very words ::

" If any person in the government of India has any opportunity of aggrandising himself, it is either the Prime Minister or the Ministers of State and such a provision *ought* to have been imposed upon them for their tenure but not upon the President."

The Honourable Dr. B. R. Ambedkar : That is what I was saying. What I said was that such a provision might be necessary in the case of Ministers, and my Friend Mr. Kamath also read some section from the Factory Act requiring similar qualifications for a Factory Inspector. Now, Sir, the position that we have to consider is this : no doubt, this is a very laudable object, namely, that the Ministers in charge should maintain the purity of administration. I do not think anybody in this House can have any quarrel over that matter. We all *of* us are interested in seeing that the administration is maintained at a high level, not only of efficiency but also of purity. The question really is this : what ought to be the sanctions for maintaining that purity ? It seems to me there are two sanctions. One is this, namely, that we should require by law and by Constitution,—if this provision is to be effective—not only that the Ministers should make a declaration of their assets and their liabilities at the time when they assume office, but we must also have two supplementary provisions. One is that every Minister on quitting office shall also make a declaration of his assets on the day on which he resigns, so that everybody who is interested in assessing whether the administration was corrupt or not during the tenure of his office should be able to see what increase there is in the assets of the Minister and whether that increase can be accounted for by the savings which he can make out of his salary. The other provision would be that if we find that a Minister's increases in his assets on the day on which he resigns are not explainable by the normal increases due to his savings, then there must be a third provision to charge the Minister for explaining how he managed to increase his assets to an abnormal degree during that period. In my judgement, if you want to make this clause effective, then there must be three provisions as I stated. One is a declaration at the outset; second is a declaration at the end of the quitting of this office; thirdly, responsibility for explaining as to how the assets have come to be so abnormal and fourthly, declaring that to be an offence, followed

up by a penalty or by a fine. The mere declaration at the initial state.....

Mr. Naziruddin Ahmad : How could you trace or check invisible assets or secret assets ?

The Honourable Dr. B. R. Ambedkar : The whole thing is simply good for nothing, so to say. It might still be possible, notwithstanding this amendment for the Minister to arrange the transfer of his assets during the period in such a manner that nobody might be able to know what he has done and therefore, although the object is laudable, the machinery provided is very inadequate and I say the remedy might be worse than the disease.

Shri H. V. Kamath: May I, Sir, presume that Dr. Ambedkar at least accepts the amendment in principle and that he has not resiled from the view which he propounded the other day, that he has not recanted,?

The Honourable Dr. B. R. Ambedkar: I do not resile from my view at all. All I am saying is that the remedy provided is very inadequate and not effective, and therefore, I am not in a position to accept it.

Prof. Shibban Lal Saksena: Make it more comprehensive.

The Honourable Dr. B. R. Ambedkar : I cannot do it now. It was the business of those who move the amendment to make the thing foolproof and knave-proof, but they did not.

Now, Sir, I was saying that nobody has any objection, nobody quarrels with the aim and object which is behind this amendment. The question is, what sort of sanction we should forge. As I said, the legal sanction is inadequate. Have we no other sanction at all ? In my judgement, we have a better sanction for the enforcement of the purity of administration, and that is public opinion as mobilised and focussed in the Legislative Assembly. My Honourable Friend. Mr. H. V. Kamath cited the illustration of the Factory Act. The reason why those disqualifications had been introduced in the case of the Factory Inspector is because public opinion cannot touch him, but public opinion is every minute glowing, so to say, against the Ministry, and if the House so desires at any time, it can make itself felt on any particular point of maladministration and remove the Ministry; and my submission, therefore, is that there is far greater sanction in the opinion and the authority of the House to enforce purity of administration, so as to nullify the necessity of having an outside legal sanction at all.

Shri Tokanath Misra (Orissa: General): Is that not a more impossible task ?

The Honourable Dr. B. R. Ambedkar : Democracy has to perform many more impossible tasks. If you want democracy, you must face them.

Now, Sir, I come to the amendment of my Honourable Friend, Mr. Naziruddin Ahmad. He wants the deletion of the latter part of the amendment

which I moved. His objection was that if the latter part of my amendment remained, it would nullify the earlier part of my amendment, namely, the obligation of the Minister to follow the directions given in the Instrument of Instructions. Yes, theoretically that is so. There again the question that arises is this. How are we going to enforce the injunctions which will be contained in the Instrument of Instructions ? There are two ways open. One way is to permit the court to enquire and to adjudicate upon the validity of the thing. The other is to leave the matter to the legislature itself and to see whether by a censure motion or a motion of no confidence, it cannot compel the Ministry to give proper advice to the President and impeachment to see that the President follows that advice given by the Ministry. In my judgement, the latter is the better way of effecting our purpose and it would be unfair, inconvenient, if everything done in the House is made subject to the jurisdiction of the court, so that any recalcitrant Member may run to the Supreme Court and by a writ of injunction against the Speaker prevent him from carrying on the business of the House, unless that particular matter is decided either by the Supreme Court or the High Court as the case may be. It seems to me that that would be an intolerable interference in the work of the Assembly. Even in England the Parliament is not subject to the authority of the Court in matters of procedure and in the conduct of its own business and I think that is a very sound rule which we ought to follow, especially when it is perfectly possible for the House to see that the 'Instrument of Instructions is carried out in the terms in which it is intended by the President and by the Ministry. Sir, I oppose this amendment.

Prof. Shibban Lal Saksena : What about nominated members being in the Cabinet ?

The Honourable Dr. B. R. Ambedkar: I have dealt with that. Mr. Vice-President : I shall now put the amendments one by one to vote.

(Amendments which were adopted are give below:—

(Amendments by Dr. Ambedkar)

(1)" That after clause (5) of article 62, the following new clause be inserted—

' 5 (a) In the choice of his Ministers and the exercise of his other functions under this Constitution, the President shall be generally guided by the Instructions set out in Schedule III-A, but the validity of anything done by the President shall not be culled in question on the ground that it was done otherwise than in accordance with such instructions.' "

(2) " That in clause (3) of article 62, after the word ' Council ' the words ' of Minister ' be inserted.

Amendment No. 1326 as amended by amendment No. 71 of List V as

further amended by Shri Krishnamachari and Shri Kamath.

" That in clause (5) of article 62, for the words ' for any period of six consecutive months, is ' the words ' from the date of his appointment is for a period of six consecutive months ', he substituted."

[Article 62, as amended was adopted and added to the Constitution.]

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ARTICLE 66

The Honourable Dr. B. R. Ambedkar (Bombay : General) : I do not accept any of the amendments, nor do I think that any reply is called for.

Mr. Vice-President : I shall now put the amendments one by one to vote. Amendment No. 1358. The question is:

" That in article 66 the words ' and two Houses to be known respectively as the council of State ' be deleted."

The amendment was negatived.

Mr. Vice-President : amendment No. 1356. The question is :

" That in article 66 for the words ' There shall be a Parliament for the Union which ' the words ' The Legislature of the Union shall be called the Indian National Congress and ' he substituted."

The amendment was negatived.

Mr. Vice-President : Amendment No. 1357. The question is : " That in article 66, the words ' The President and ' be deleted."

The amendment was negatived.

Mr. Vice-President: The question is :

" That article 66 stand part of the constitution."

The motion was adopted.

Article 66 was added to the constitution.

ARTICLE 67

Mr. Vice-President : We next come to article 67. The motion is :

" That article 67 form part of the Constitution."

Shri L. Krishnaswami Bharathi (Madras : General) : Mr. Vice-President, I have an humble suggestion to make in the matter of procedure when we deal with this article. You will be pleased to see that this article relates to the composition of the Houses of Parliament, the two Houses, namely, the

Council of states and the House of the People. It contains nine clauses, and I would suggest that in the interest of clarity of discussion, this article may be split up into three parts : one relating to the composition of the council of states—clauses (1) to (4); clauses (5) to (7) relate to the composition of the House of the People, clauses (8) and (9) are consequential, relating to both the Houses, regarding the census and the effect on the enumeration of the census.

I talked this matter over with Dr. Ambedkar and he himself said that he had marked it like that in his book, and that he proposed to make certain changes of transposition during the third reading. It may not be therefore quite possible straightway to split it at present, but I would request you to have all the amendments to the Council of States, clauses (1) to (4), taken together and discussions may be concentrated regarding them first, and the article may be kept open for amendments. After the discussion is over, you may put the whole clause together. All this I suggest in the interest of clarity so that when Honourable Members deal with the Council of States they may confine their discussion on it and later on they may concentrate their discussion on the part of the article relating to the House of the People.

Mr. Vice-President : Have you anything to say, Dr. Ambedkar, regarding this matter, namely, the suggestion of Mr. Bharathi ?

The Honourable Dr. B. R. Ambedkar: I am quite agreeable to the suggestion for the purpose of facilitating discussion.

Mr. Vice-President : Then we can take up the amendments in their particular order.

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The Honourable Dr. B. R. Ambedkar: Sir, I move:

"That for clause (1) of article 67, the following be substituted: '

(1) The Council of States shall consist of not more than two hundred and fifty members of whom—

(a) twelve members shall be nominated by the President in the manner provided in clause (2) of this article; and

(b) the remainder shall be representatives of the States.' "

The only important thing is that the number fifteen has been brought down to twelve.

(Amendment Nos. 1371, 1373 and 1374 were not moved.)

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Mr. Vice-President : There are three amendments which may be considered together, amendments numbers 1371, 1373 and 1374. Of these, the first seems to be the most comprehensive and may be moved.

Amendments Nos. 1371, 1373 and 1374 were not moved.

Amendments Nos. 1375 and 1376. Amendment No. 1375 may be moved. Amendment No. 1376 is idential with amendment No. 1375, so I am not going to put it to vote. Amendment No. 1375, Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar: Mr. Vice-President, Sir,

I beg to move:

"That the proviso to clause (1) of article 67 be deleted."

With your permission. Sir, may I also move amendment No. 1378 ? It is in substitution of this proviso.

Mr. Vice-President: Yes.

The Honourable Dr. B. R. Ambedkar: Sir, I beg to move:

"That the following new clause be added after clause (1) of article 67: ' (1a) The allocation of seats to representatives of the States in the Council of States shall be in accordance with the provisions in that behalf contained in Schedule III-B.' "

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Mr. Vice President : Amendment No. 1380 standing in the name of Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar: Mr. Vice-President, Sir,

I move:

" That for clause (2) of article 67, the following be substituted :

' (2) The members to be nominated by the President under sub-clause (a) of clause (1) of' this article shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely:

Letters, art, science and social services.' "

Mr. Vice-President: Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Mr. Vice-President, I am agreeable to amendments Nos. 1369, 1375, 1378, 1380, 1400 and 1403. With regard to the last two amendments (Nos. 14(X) and 1403) those are also covered by an amendment moved by Mr. Mahboob Ali baig. It is amendment No. 1407. I would have been glad to accept that amendment but unfortunately, on examining the text of that amendment, I find that it does not fit in with the generality of the language used in clause (3) of article 67. That is the only reason why I prefer to accept amendment No. 1403, because the language fits in properly with the language of the article.

With regard to the other amendments, I think there are only three which call for special consideration. One is an amendment by Mr. Kunhiraman. The aim and object.....

Mr. Vice-President : It was not moved.

The Honourable Dr. B. R. Ambedkar : Then I do not think I need say anything about it. There remain only two—one is the amendment of Mr. Kunzru. He was very naturally considerably agitated over the proviso which stood in the Draft Constitution and which provided for the 40 per cent representation to representatives of the States. I think it is desirable that I should clear the ground and explain what exactly was the reason why this proviso was introduced and what is the present position. It is quite true that in the Government of India Act, it was provided that although the States population formed one-quarter of the total population of India as it then stood in the Tower House, the States got representation which was one-third of the total and in the council of States they got two-fifths representation which was 40 per cent. That is not one origin as to why this proviso was introduced in the Draft Constitution. I should therefore like to go back and give the history of this clause.

Members of the House will remember that this House had appointed a Committee known as the Union Powers Committee. That Committee recommended a general rule of representation, both for people in British India as well as people in the Indian States and the rule was this : That there should be one seat for every million up to five millions, plus one seat for every additonal *two* millions. As I said, this was to be a rule to be applicable both to the provinces as well as the States. But when the report of the Union Powers Committee came before the Constituent Assembly for consideration, it was found that the representatives of the States had moved a large number of amendments to this part of the report of the Union Powers Committee. Great many negotiations took place between the representatives of Indian provinces and the representatives of the Indian States. Consequently, if Honourable Members will refer to the debates of the Constituent Assembly for 31st July 1947, my friend and colleague, Mr. Gopalaswami Ayyangar, who moved the adoption of the report of the Union Powers Committee, moved an amendment that the States representation shall not exceed 40 per cent. Now that rule had to be adopted or introduced in the Draft Constitution. So far as I have been able to examine the proceedings, I believe that this proviso of granting the States 40 per cent representation was introduced not so much with the aim of giving them weightage but because the number of States was so many that it would not have been possible to give representation to every State who wanted to enter the Union unless the total of the representation granted to the

States had been enormously increased. It is in order to bring them within the Union that this proviso was introduced. We find now that the situation has completely changed. Some States have merged among themselves and formed a larger Union. Some States have been integrated in British Indian provinces, and a few States only have remained in their single individual character. On account of this change, it has not become as necessary as it was in the original State of affairs to enlarge the representation granted to the States, because those areas which are now being integrated in the British Indian provinces do not need separate representation. They will be represented through the provinces. Similarly, the States which have merged would not need separate representation each for itself. The totality of representation granted to the merged States would be the representation which would be shared by every single unit which originally stood atoof. Consequently, in the amendment which I have introduced, and which speaks of Schedule 3-A, which unfortunately is not before the House, but will be introduced as an amendment when we come to the schedules, what is proposed to be done is this :

We have removed this 40 per cent ratio granted to the States and there will be equality of representation in the Upper Chamber, both to the Indian States us well as to the Provinces, and lamina position to give some figures, which although they are not exact for the moment, are sufficient to give a picture of what is likely to be the contents of Schedule 3-A.

According to Schedule 3-A, the Provinces will have 141 seats. The Chief Commissioners' Provinces will have two and the States will have seventy altogether. Consequently, the total of elected members to the Upper Chamber will be 213. Add to that twelve nominated seats. That would bring the total to 225. Our clause, as amended, says that the total strength of the Council of States shall not exceed 250. You will thus see that the allocation of seats which it is proposed to make in Schedule 3-A satisfies two conditions, in the first place it removes weightage and secondly, it brings the total of the House within the maximum that has been prescribed by the amendment that I have made. I think the House will find that this is a very satisfactory position.

Pandit Hirday Nath Kunzru : May I ask my Honourable Friend whether the States in Part III of the first Schedule have been represented in accordance with their population ?

The Honourable Dr. B. R. Ambedkar : Yes, everybody will now get population ratio.

Then I come to the second amendment—No. 1377 by Prof. K. T. Shah. Prof. K. T. Shah proposes that there should be a council of the representatives of agriculture, industry, commerce and other special interests

created by statute. It will be a permanent body of people. The States shall be required to give them salaries, allowances, and the duty of this council, as proposed by Prof. K. T. Shah, is that it shall have the statutory duty of giving advice to Government, and the Government will have the statutory obligation of consulting this body, and it shall not be permissible for the Government, I take it, to introduce any measure which, on the face of it, does not bear the endorsement that the statutory body has been consulted with regard to the contents of that Bill. I believe that is the purpose of Prof. K. T. Shah's amendment.

There are various objections to this. In the first place anyone who has held any portfolio in the Government of India or in the Provincial Governments will know that this is the normal method which the Government of India and the Provincial Governments adopt before they finalise their legislative measures : there is no proposal brought forth by the Government of India in .which the Government of India has not taken sufficient steps to consult organised opinion dealing with that particular matter. It seems to me that his provision which is a matter of common course is hardly necessary to be put in the Constitution. I therefore, think, that from that point of view it is unnecessary.

Then I should like to tell the House that it is proposed that at a later stage I should bring in an amendment which would permit the President to nominate three persons, either to the Council of States or to the House of the People, who shall be experts with regard to any matter which is being dealt with by any measure introduced by Government. If it is a matter of commerce, some person who has knowledge and information and who is an expert in that particular branch of the subject dealt with by the Bill, will be appointed by the President either to the Council of States- or to the Tower House. He shall continue to be a member of the Legislature until the Bill is disposed of, he shall have the right to address the House, but he shall not have the right to vote. It is through that amendment that the Drafting Committee proposes to introduce into the House such expert knowledge as the Legislature at any particular moment may require. That justifies, as I said, the rejection of Prof. K. T. Shah's amendment; and also the other amendments which insisted that the other clauses of this article requiring that agriculture, industry and so on be also represented, become unnecessary. Because, whenever any such expert assistance is necessary, this provision will be found amply sufficient to carry out that particular purpose. Honourable members might remember that in the 1919 Act when Diareby was introduced in the Provinces, a similar provision was introduced in the then Government of India Act, which permitted Provincial Governors to nominate experts to the House to deal with particular measures. Sir, I suppose and I believe that this particular proposal,

which I shall table before the House through an amendment, will be sufficient to meet the requirements of the case.

Shri R. K. Sidhwa: Will the nomination clause remain ?

The Honourable Dr. B. R. Ambedkar : Yes.

Mr. Vice-President : **I** shall now put amendment No. 1379 to vote.

"That for clause (1) of article 67, the following he substituted:

‘ (1) The Council of States shall consist of not more than two hundred and fifty members of whom—

(a) twelve members shall be nominated by the President in the manner provided in clause (2) of this article; and

(b) the remainder shall be representative of the States.' "

The amendment was adopted.

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Mr. Vice-President: I shall put amendment No. 1375, standing in the name of Dr. Ambedkar, to vote. It reads.

"That the proviso to clause (1) of article 67 be deleted."

Shri L. Krishnaswami Bharathi: On a point of Order, Sir, Amendment No. 1375 is out of order in view of the fact that we have already adopted amendment No. 1369 which is a substitution of the clause including the proviso. The proviso has been omitted now by the acceptance of the new clause. There is no point in having an amendment about something which is not in existence.

Mr. Vice-President: Then I shall not put it to vote.

[Five amendments as shown below were adopted, 23 amendments were negatived.]

Amendment No. 1378:

"That the following new clause he added after clause (1) of article 67: ' (1-a) The allocation of seats to representatives of the States in the Council of States shall be in accordance with the provisions in that behalf contained in Schedule III-B.' "

The amendment was adopted.

Amendment No. 1380. (by Dr. B. R. Ambedkar)

" That for clause (2) of article 67, the following be substituted : l

' (2) The members to be nominated by the President under sub-clause (a) of Clause

(1) of this article shall consist of persons having special knowledge or practical experience in respect of such matters as the following, namely:

' Letters, art, science and social services.' "

The amendment was adopted.

Amendment No. 1400.

" That at the end of sub-clause (a) of clause (3) of article 67. the following words be added:

' in accordance with the system of proportional representation by means of the single transferable vote.' "

The amendment was adopted.

Amendment No. 1403.

" That in sub-clause (b) of clause (3) of article 67, after the words ' of that House ' the words ' in accordance with the system of proportional representation by means of the single transferable vote ' he inserted."

The amendment was adopted.

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Mr. Vice-President : The first part of amendment No. 1425 and amendment No. 1426 standing in the name of Mr. Kamath are identical. I propose that amendment No. 1425 may be moved, the first as well as the second part. Mr. Kamath, do you want your amendment No. 1426 to be put to vote ?

Shri H. V. Kamath : I see that Dr. Ambedkar has stolen a March over me and so I do not propose to move my amendment.

Mr. Vice-President: Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar (Bombay : General) : I am not moving it.

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Pandit Thakur Dass Bhargava : Signing the name can be learnt in two month.

Shri M. Ananthasayanam Ayyangar : With what effect ? It is idle to think that merely if a man is able to sign his name, he will immediately become such a literate and educated man as to exercise his vote properly; I should say such a qualification is unnecessary....

I support the formal amendments moved by my Friend Dr. Ambedkar and oppose the amendments moved by Mr. Karimuddin and Mr. Baig and also by

Prof. Shah.

The Honourable Dr. B. R. Ambedkar: Mr. Vice-President, sir, I accept the amendments Nos. 1417, 1426, 1431 of Prof. Shah, 1434 as amended by the mover of that amendment and as amended by the amendment No. 42 of List II and No. 43 of List II. Of the other amendments, on a careful examination, I find that there is only one amendment on which I need offer any reply. That is amendment No. 1415 of my friend Mr. Karimuddin. His amendment aims at prescribing that the election to the House of the People in thee various States shall be in accordance with the propotional representation by single transferable vote. Now, I do not think it is possible to accept this amendment, because, so far as I am able to Judge the merits of the system of proportional representation, in the light of the circumstances as they exist in this country, I think, that amendment cannot be accepted. My Friend Mr. Karimuddin will, I think, accept the proposition that proportional representation presupposes literacy on a large scale. In fact, it presupposes that every voter shall he literate, at least to the extent of being in a position to know the numericals, and to be in a position to mark them on a ballot paper. I think, having regard to the extent of literacy in this country, such a presupposition would be utterly extravagant. I have not the least doubt on that point. Our literacy is the smallest, I believe, in the world, and it would be quite impossible to impose upon an illiterate mass of voters a system of election which involves marking of ballot papers. That in itself, would, I think, exclude the system of proportional representation.

The second thing to which I like to draw the attention of the House is that at any rate, in my judgement, proportional representation is not suited to the from of Government which this constitution lays down. The form of Government which this constitution lays down is what is known as the parliamentary system of Government, by which we understand that a government shall continue to be in office not necessarily for the full term prescribed by law, namely, five years, but so long as the Government continues to have the confidence of the majority of the House. Obviously it means that in the House where there is the parliamentary system of government, you must necessarily have a party which is in majority and which is prepared to support the Government. Now, so far as I have been able to study the results of the systems of parliamentary or proportional representation. I think, it might be said that one of the disadvantages of proportional representation is the fragmentation of the legislature into a number of small groups. I think the House will know that although the British Parliament appointed a Royal Commission in the year 1910, for the purpose of considering whether their system of single-member constituency, with one

man one vote, was better or whether the proportional representation system was better, it is, I think, a matter to be particularly noted that Parliament was not prepared to accept the recommendations of that Royal Commission. The reason which was given for not accepting it was, in my judgement, a very sound reason, that proportional representation would not permit a stable government to remain in office, because Parliament would be so divided into so many small groups that every time anything happened which displeased certain groups in Parliament, they would, on that occasion, withdraw their support from the government, with the result that the Government tosing the support of certain groups and units, would fall to pieces. Now, I have not the least doubt in my mind that whatever else the future government provides for, whether it relieves the people from the wants from which they are suffering now or not, our future government must do one thing, namely, it must maintain a stable Government and maintain law and order. *(Hear, hear).* I am therefore, very hesitant in accepting any system of election which would damage the stability of Government. I am therefore, on that account, not prepared to accept this arrangement.

There is a third consideration which I think, it is necessary to bear in mind. In this country, for a long number of years, the people have been divided into majorities and minorities. I am not going into the question whether this division of the people into majorities and minorities was natural, or whether it was an artificial thing, or something which was deliberately calculated and brought about by somebody who was not friendly to the progress of this country. Whatever that may be, the fact remains that there have been these majorities and minorities in our country; and also that, at the initial stage when this Constituent Assembly met for the discussion of the principles on which the future constitution of the country should be based, there was an agreement arrived at between the various minority communities and the majority community with regard to the system of representation. That agreement has been a matter of give and take. The minorities who, prior to that meeting of the Constituent Assembly, had been entrenched behind a system of separate electorates, were prepared, or became prepared to give up that system and the majority which believed that there ought to be no kind of special reservation to any particular community permitted, or rather agreed that while they could not agree to separate electorates, they would agree to a system of joint electorates with reservation of seats. This agreement provides for two things. It provides for a definite quota of representation to the various minorities, and it also provides that such a quota shall be returned through joint electorates. Now, my submission is this, that while it is still open to this House to revise any part of the clauses contained in this draft constitution and

while it is 'open to this House to revise any agreement that has been arrived at between the majority and the minority, this result ought not to be brought about either by surprise or by what I may call, a side-wind. It had better be done directly and it seems to me that the proper procedure for effecting a change in articles 292 and 293 would be to leave the matter to the wishes of the different minorities themselves. If any particular minority represented in this House said that it did not want any reservation, then it would be open to the House to remove the name of that particular minority from the provisions of article 292. If any particular minority preferred that although it did not get a cent per cent deal, namely, did not get a separate electorate, but that what it has got in the form of reservation of seats is better than having nothing, then I think it would be just and proper that the minority should be permitted to retain what the Constituent Assembly has already given to it.

Pandit Thakur Dass Bhargava : But there was no agreement about reservation of seats among the communities and a number of amendments were moved by several Members for separate electorates and so on, but they were all voted down. There was no agreement at all in regard to these matters.

The Honourable Dr. B. R. Ambedkar: I was only saying that it may be taken away, not by force, but by consent. That is my proposition, and therefore, I submit that this proportional representation is really taking away by the back-door what has already been granted to the minorities by this agreement, because proportional representation will not give to the minorities what they wanted, namely, a definite quota. It might give them a voice in the election of their representatives. Whether the minorities will be prepared to give up their quota system and prefer to have a mere voice in the election of their representatives, I submit, in fairness ought to be left to them. For these reasons. Sir, I am not prepared to accept the amendment of Mr. Karimuddin.

Mr. Vice-President : I shall now put the amendments, one by one, to the vote of the House.

Shri H. J., Khandekar : On a point of information, Sir, may I ask Dr. Ambedkar, what about the preceding census. He has not said anything when he amended article 35 the other day. About the preceding census, is he prepared to amend it by saying ' the latest census ' ?

Mr. Vice-President : Mr. Khandekar may come to the rostrum and speak.

The Honourable Dr. B. R. Ambedkar: I have accepted the. amendment of Mr. Naziruddin Ahmad as amended by him and as amended by Shri Bhargava.

[In all 8 amendments were negatived . Following amendments were adopted.]

1 " That in -sub-clause (a) of clause (5) of article 67, for the words ' representatives of the people of the territories of the states directly chosen by the voters ', the words ' members directly elected by the voters in the States ' be substituted."

2 " That in sub-clause (b) of clause (5) of article 67, the words ' of India ' be deleted."

3"That the proviso to sub-clause (b) of clause (5) of article 67 be deleted."

4 "That with reference to amendment No. 1434 of the List of amendments, in sub-clause (c) of clause (5) of article 67, for the words ' members to be elected at any time for', the words 'representatives allotted to' be substituted."

5 " That in sub-clause (c) of clause (5) of article 67, for the words ' last preceding census '. the words ' last preceding census of which the relevant figures have been published ' be substituted."

6 "That in clause (7) of article 67, for the word ' may ' the word ' shall ', for the word ' territories ' the words ' the territories ' and for the words ' other than States ' the words ' directly governed by the centre on the same basis as in the case of states which are constituent parts of the Union ' be substituted respectively."

7 "That with reference to amendment No. 1450 of the List of amendments, after clause (8) of article 67, the following new proviso be inserted:—

' Provided that such readjustment shall not affect representation to the House of the People until the dissolution of the then existing House'."

8 "That to article 67, the following new clause (10) be added:—

' (10) The election to the House of the People shall be in accordance with the system of proportional representation by means of a single transferable vote.' "

Article 67, as amended, was added to the Constitution.

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ARTICLE 147-A

Mr. Vice-President : Dr. Ambedkar will reply to the amendment.

The Honourable Dr. B. R. Ambedkar (Bombay : General) : Sir, I oppose the amendment, and all that I need say is this, that the basic principle of the amendment is so fundamentally opposed to the basic principles on which the Draft Constitution is based, that I think it is almost impossible now to accept any such proposal.

Mr. Vice-President : I am now going to put the amendment to vote.

The question is :

"That before article 148, the following new article 147-A be added :—

' 147-A. The legislature of every state shall he wholly separate from independent of Executive or the Judiciary in the State '.

[This amendment of Prof. K. T. Shah was negatived.]

ARTICLE 148

Mr. Vice-President : There is an amendment to this amendment— No. 46 of List II, standing in the name of Dr. Ambedkar. Is the Honourable Member going to move it ?

The Honourable Dr. B. R. Ambedkar : Sir, I move:

" That for amendment No. 2231 of the List of Amendments, the following be substituted:—

' That in sub-clause(a) of clause (1) of article 148, after the words ' in the states of ' the words ' Madras, Bombay, West Bengal, the United Provinces, Bihar- and East Punjab ' be inserted'."

Sir, I should like to state to the House that the question of whether to have a second chamber in the provinces or not was discussed by the Provincial Constitution Committee, which was appointed by this House. The decision of that Committee was that this was a matter which should be left to the decision of -each province concerned. If any particular province decided to have a second chamber it should be allowed to have a second chamber : and if any particular province did not want a second chamber, a second chamber should not be imposed upon it. In order to carry out this recommendation of the Provincial Constitution Committee it was decided that the Members in the Constituent Assembly, representing the different provinces should meet and come to a decision on this issue. The Members of the different provinces represented in this Assembly therefore met in groups of their own to decide this question and as a result of the deliberations carried on by the Members it was reported to the office that the provinces which are mentioned in my amendment agree to have a second chamber for their provinces. The only provinces which decided not to have a second chamber are the C. P. & Berar, Assam and Orissa. My amendment gives effect to the results of the deliberations of the representatives of the different provinces in accordance with the recommendation of the Provincial constitution committee.

Sir, I move:

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Mr. Vice-President : Dr. Ambedkar.

Shri H. V. Kamath (C.P. & Berar: General): Mr. Vice-President.....

Mr. Vice-President : Mr. Kamath comes from the C. P. which has no upper chamber. *(Laughter.)*

Shri H. V. Kamath : That is exactly. Sir, why I would like to speak.

Mr. Vice-President : I think the point has been sufficiently discussed. Some tour more Honourable Members would probably like to speak, but we have already spent one and a half hours, and we have to make a definite progress every day. I offer my apologies to those gentlemen who have been disappointed; that is all I can offer in the present circumstances. Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar: Mr. Vice-President, Sir, I regret I cannot accept any of the amendments that have been moved to this particular article. I find from the speeches that have been made that there is not the same amount of unanimity in favour of the principle of having a second chamber in the different provinces. I am not surprised at the views that have been expressed in this House against second chambers. Ever since the French Constituent Assembly met, there has been consistently a view which is opposed to second chambers. I do not think the view of those who are opposed to second chambers can be better put than in the words of Abbe Seiyes. His criticism was two-fold. He said that if the upper House agreed with the tower one, then it was superfluous. If it did not agree with the tower House, it was a mischievous body and we ought not to entertain it. *(Laughter).* The first part of the criticism of Abbe Seiyes is undoubtedly valid, because it is so obvious. But nobody has so far agreed with the second part of the criticism of Abbe Seiyes. Even the French nation has not accepted that view; they too have consistently maintained the principle of having a second chamber.

Now, speaking for myself, I cannot say that I am very strongly prepossessed in favour of a second Chamber. To me, it is like the Curate's egg-good only in parts. *(Laughter.)* All that we are doing by this Constitution is to introduce the second chamber purely as an experimental measure. We have not by the draft Constitution, given the second chamber a permanent place, we have not made it a permanent part of our Constitution. It is a purely experimental measure, as I said, and there is sufficient provision in the present article 304 for getting rid of the second chamber. If, when we come to discuss the merits of article 304 which deals with the abolition of the second chamber, Honourable Members think that some of the provisions contained in article 304 ought to be further relaxed so that the process of getting rid of the second

chamber may be facilitated. Speaking for myself, I should raise no difficulty *(Hear, Hear),* and I therefore suggest to the House, as a sort of compromise, that this article may be allowed to be retained in the Constitution.

Mr. Vice-President : I am now going to put the amendments to vote, one by one.

The question is—

" That for amendment No. 2231 of the List of Amendments, the following be substituted:—

" That in sub-clause (a) of clause (1) of article 148, after the words ' in the State of ' the words ' Madras, Bombay, West bengal, the United Provinces, Bihar and East Punjab ' be inserted.' "

[The amendment of Dr. Ambedkar was adopted. Two more amendments were negatived.]

Article 148, as amended, was adopted and added to the constitution.

ARTICLE 149

Mr. Vice-President : Then we come to article 149. ...Amendment No. 2241 may be moved. It stands in the name of Dr. Ambedkar.

An Honourable Member: It is not being moved. (Voices: ' member not in the House ' *(Laughter.)*

Mr. Vice-President : (Seeing the Honourable Dr. Ambedkar coming into the Chamber) Honourable Members are at perfect liberty to go out to take a cup of coffee or have a smoke. They will kindly realise the difficulties of those who are accustomed to both these types of relaxation. Honourable Members will agree that Dr. Ambedkar is entitled to relaxation of that sort. The Chair has nothing to do but to listen to the debates, but Dr. Ambedkar has to listen to the debates and reply. *(Laughter.)*

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Mr. Vice-President: ...Shall we now go on to amendment No. 2250, standing in the name of Dr. Ambedkar ?

The Honourable Dr. B. R. Ambedkar : Not moving. Mr. Vice-President: In that case amendment No. 59 in List III, falls through.

The Honourable Dr. B. R. Ambedkar: Sir, I beg to move:

" That for the proviso to clause (3) of article 149, the following be substituted

' Provided that where the total population of a state as ascertained at the last preceding census exceeds three hundred lakh s, the number of members

in the Legislative Assembly of the State shall be on a scale of not more than one member for every lakh of the population of the State up to a population of three hundred lakhs and not more than five members for every complete ten lakh; of the population of the state in excess of three hundred lakhs :

Provided further that the total number of members in the Legislative Assembly of a state shall in no case be more than four hundred and fifty or less than sixty '."

Mr. Vice-President : So much goodwill has been shown to me by the House, so much kindness is bestowed on me that I suggest that I do not call upon Dr. Ambedkar to make his reply today but that we pass on the some other business, so that all the parties concerned may have an opportunity of putting their heads together and arriving at an agreed solution. After all, framing the Constitution is a co-operative effort and we must do all that we can to make it a success.

Some Honourable Members: Thank you. Sir.

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ARTICLE 63

Mr. Vice-President : There are number of amendments to that amendment.

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Shri Prabhudayal Himatsingka (West Bengal : General) : Sir, I beg to oppose the amendments moved by Mr. Naziruddin Ahmad and Prof. K. T. Shah. The article as it stands is what should be accepted by the House. There is certainly difference between the Advocate-General of a province and the Attorney-General of India. Sub-clause (4) provides that the Attorney-General shall hold office at the pleasure of the President and I think that should serve the purpose. If there is a change in the Ministry that necessarily need not mean the going out of office of the Attorney-General also, but in the provinces with the change of ministry the Advocate-General should be required to retire unless he is appointed again. Therefore, I oppose the amendments moved and I support the article as it stands.

Mr. Vice-President: Dr. Ambedkar.

Mr. Naziruddin Ahmad: He has not listened. He is getting his instructions. Sir.

Mr. Vice-President : That is hardly a charitable remark to make.

Mr. Naziruddin Ahmad : It is not. I am forced to make the remark, Sir.....

Mr. Vice-President : Will the Honourable Member kindly resume his seat ?

The Honourable Dr. B. R. Ambedkar (Bombay : General) : Sir, I do not know whether any reply is necessary.

[All the amendments were negatived and Article 63 was added to the Constitution.]

ARTICLE 64

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Shri Raj Bahadur (United State of Matsya) : Mr. Vice-President, Sir, I come here to oppose the amendment that has been moved by Prof. K. T. Shah. From the various amendments that he has been moving from time to time, I am led to think that he is moving according to a set plan and that he wants the Presidential system of constitution instead of the Parliamentary system of democracy for the country. But, with all respect to his erudition and experience, I see that he has not been consistent even in that. When we discussed article 42, by which the entire executive power of the Union is vested in the President, he himself moved two amendments. Nos. 1040 and 1045 to that article and one of his amendment reads as follows :—

" The sovereign executive power and authority of the Union shall be vested in the President, *and shall be exercised by him* in accordance with the Constitution and in accordance with the laws made thereunder and in force for the *time* being."

By implication it means obviously that all executive actions should be taken by and in the name of the President, which is exactly the import, meaning and the implication of article 64, under discussion. I therefore, fail to see any reason for Prof. K. T. Shah to go now behind the terms of his own amendment, which he moved to article 42. What we mean clearly enough is that the entire executive power of the Union vests in the President and all governmental orders, and instruments shall be made in the name of the President. It is no anomaly and no inconsistency under any known democratic principles to get the orders issued in the name of the President and as such, I submit, there is no reason for the house to accept the amendment which has been moved by Prof. Shah.

The Honourable Dr. B. R. Ambedkar: Mr. Vice-President, sir, I do not think any reply is called for.

[Two amendments were negatived. None was adopted. Article 64 was adopted and added to the Constitution.]

ARTICLE 65

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Mr. Vice-President : There is only one amendment now before the House and the clause is open for general discussion. Dr. Ambedkar, would you like to say anything ?

The Honourable Dr. B. R. Ambedkar: No, Sir, I do not accept Mr. Kamath's amendment.

The amendment was negatived.

Article 65 was added to the Constitution.

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MOTION *re* PREPARATION OF ELECTORAL ROLL

Mr. Vice-President : Dr. Ambedkar. May I suggest that you read the resolution in the accepted form before you reply ?

The Honourable Dr. B. R. Ambedkar: Yes; I will indicate the changes that I am going to accept.

Shri Deshbandhu Gupta : May I know. Sir, before Dr. Ambedkar proceeds to reply whether you have given any ruling on the point of order raised by me. I had raised a point of order that, unless the word " already " goes, this resolution will be of no use because article 149 .....

Mr. Vice-President : I think the word " already " has already been omitted.

The Honourable Dr. B. R. Ambedkar: Mr. Vice-President, Sir, with your permission, I propose to reply to the debate on behalf of the mover of the resolution was Mr. Vice-President, of this resolution.

Before I proceed to deal with the detailed amendments, I should like to propose myself certain amendments in the Resolution as was moved by the Mover.

The first amendment that I propose is, to delete the word " already " from paragraph 2.

My second amendment is to delete clause (a) from sub-clause (1), and delete also the letter and brackets "(b) " in the beginning of the second sub-clause, so that sub-clause (1) will read thus:

" That no person shall he included in the electoral roll of any constituency if he is of unsound mind and stands so declared by a competent court."

Then in paragraph (4), I propose to make the following amendments. For the words " subject to the law of the appropriate legislature " in line of that

paragraph, my amendment would be " notwithstanding anything in paragraph (3) above ". In line 5 of that paragraph, for the words " a constituency ", substitute the words " an area ".

These are my amendments. I shall briefly explain my amendments. The amendment which I have moved to drop the word " already " meets the points of order that was raised by Shri Deshbandhu Gupta.

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The Honourable Dr. B.R. Ambedkar: Sir, as I said, it is quite true that the word " already " raises the complications which Mr. Deshbandhu Gupta mentioned and it is only right that his objection should be removed by the deletion of the word " already ".

With regard to the second amendment dropping clause (1), it seems to be quite unnecessary, because, the purport of that clause is embodied in paragraphs (3) and (4).

With regard to my next amendment to substitute the words " notwithstanding anything in paragraph (3) above " for the words " subject to the law of the appropriate legislature ", my submission is that the original words were really unnecessary and inappropriate in a clause of that sort. Sub-clause (4) is really an exception to clause (3). That matter has been cleared by my amendment.

With regard to the word " constituency " I have substituted the word " area " in order to meet the criticism that at the stage when the rolls are prepared, there are no constituencies and all that a man can indicate is an area, not a constituency, because, constituencies are not supposed to be in existence then.

My amendment for the addition of the weirds " or makes " meets the criticism that has been made that there are many people who are illiterate, who may not be in a position to sign an application and file it before a particular officer. The addition of the words " or makes " permits an oral declaration to be made either before a district Magistrate or before an officer who is preparing the electoral rolls. I think that objection is fairly met.

I will now take into consideration the other amendments which have been moved to this resolution.

Shri L. Krishnswami Bharathi : May I suggest one amendment to the Mover that his reason for amending ' constituency ' in part, (4).....

Mr. Vice-President : You cannot tell it to the House. You can tell it to Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar: I am prepared to make the

necessary consequential changes. As I said, I will turn to the other amendments and I take the amendment of my friend Mr. Tyagi. If I understood him correctly he had no objection to the resolution in its general terms. What he wanted was that the details should be deleted. It seems to me that the position taken by my Friend Mr. Tyagi indicates that he has confusion in his mind about what the objective or the aim of the Resolution is. The aim of the Resolution is merely to make a declaration that it is the intention of this Assembly that as far as possible, election may be held sometime in 1950 but the object of the Resolution is to convey some positive directions to the authorities in charge of preparing the electoral rolls which is the basis of all elections. It would be futile and purposeless merely to make a declaration that this Constituent Assembly desires that the election should take place in the year 1950 without giving the directions to the authorities concerned in the matter *of* preparing the electoral roll. Because unless the electoral rolls are prepared in time sufficiently before the date of the election, no election can take place at all. The second part of the resolution contains directions to the various authorities and unless the directions are embodied in the resolution, the Resolution is merely a pious declaration which means nothing. It is setting out an objective without setting out the methods and the instruments by which that objective can be carried out and I think my friend Mr. Tyagi will understand that really speaking the part of the resolution which he wants to omit is more important than the part of the Resolution which he wants to retain. Now I come to the amendment of my friend Mr. Hanumanthaiya.

Shri Mahavir Tyagi: What is your view about the word ' already ' ?

The Honourable Dr. B. R. Ambedkar :I have already said that I would delete it. Coming to the amendment of Mr. Hanumanthaiya, he wants to omit the words ' in the year 1950 '. His argument has a good deal of sense behind it, because according to him if this constituent assembly were to make this declaration by this Resolution fixing 1950 as a target and if for some reason, either connected with the preparation of electoral rolls or some other circumstances, it becomes impossible to have elections in 1950, the assembly would be placed in a somewhat difficult position. The Assembly might be accused of treating this as a trifling matter when as a matter of fact it is of great substance. But at the same time in view of what the Mover of the Resolution said that there is a certain amount of feeling in the country that we are not going as fast as we ought to in the passing of this Constitution, that our procedure is more leisurely, more dilatory and that is due to our not being very serious in having an early election, it is to remove that sort of feeling in the country that it is necessary to fix some target date and it is from that point of view that the retention of the words ' in the year 1950 ' becomes necessary.

Of course, if reasons justified the postponement of the date, it would but be necessary for the Assembly to postpone the date of elections; and I am sure about it that if the Assembly is in a position to place before the country grounds which are substantial and which are not mere excuses the country will no doubt understand the change and the postponement of the date.

Now my friend Mr. Saksena wants that instead of the 1st Jan. 1949 the date 1st January 1950 be substituted. Mr. Bhargava wants that for 31st March 1948, the date 31st March 1949 be substituted. Now having regard to what has already been done, it is not possible to accept either of these amendments. Mr. Saksena's amendment, if I understood him correctly, has the object that there ought not to be a considerable time lag between the date on which the electoral roll is prepared and the date on which election is held. In other words, the electoral roll must not be very stale and out-of-date. Now it seems to me that if our election is going to take place in 1950, the electoral roll which is prepared on the basis of the voter's qualification as his being an adult on 1st January 1949 cannot, by any stretch of imagination, be deemed to be a stale roll. My Friend Mr. Saksena must be aware of the fact that all electoral rolls generally lag behind the date of election by one year.

Prof. Shibban Lal Saksena: It will become two years old!

The Honourable Dr. B. R. Ambedkar : Therefore if persons who are entitled to be voters in the electoral rolls on the basis of their single solitary qualification which we have, viz., his being a man of 21 years of age on the 1st January 1949 and if the election takes place in the year 1950 on some date not possible to prescribe, I think it cannot be said that the electoral roll will be a stale roll.

Now I am coming to the amendment of Pandit Bhargava. He wants that the date of 31st March 1949 be substituted. It is not possible to accept that amendment because in the expectation of the election taking place in the year 1950, instructions were already issued to the various Provincial Governments on the 1st March 1948 to proceed to prepare the electoral rolls on the basis of adult suffrage. It seems to me that if we accept the amendment of Pandit Bhargava, we shall have to waste all the work that has already been done by Provincial Governments on that basis. I do not think there will be any waste of work already done, because all those who on the 1st January, 1948 would be adults, would be added on to the roll that has already been prepared.

The Honourable Shri K. Santhanam: Is it not necesary also to change the date 1st January 1949 to 31st March 1948, in sub-para. (2) ?

The Honourable Dr. B. R. Ambedkar: No, I do not think so. Now, I come to the amendment of my friend Mr. Chaudhari. It seems to me that he is asking

for something which is quite impossible, if not ridiculous. He says that every person who is of unsound mind should be deprived of his vote. We all agree that unsound persons should not be included in the voters' list. But the question remains as to who is to determine whether a person is of unsound mind or not. It seems to me that unless the qualification which, is introduced in this motion says that a person can be excluded from the electoral roll only when he has been adjudged to be of unsound mind by some impartial judicial authority, seems to be the soundest proposition. Otherwise, to give the authority to a village Patwari not to enter a certain person in the electoral roll because he thinks that he is of unsound mind is really to elevate a cabin boy to the position of the captain of a ship, and I think it is not possible to accept such an amendment.

My friend Mr. Kamath raised some question with regard to a clause that was passed the other day, in which in addition to unsoundness of mind, certain other disqualifications were mentioned, particularly those relating to crime.

Shri Deshbandhu Gupta : Will all the inmates of lunatic asylums be included in the electoral rolls, in the first instance ?

The Honourable Dr. B. R. Ambedkar: I do not know the case of other provinces, but so far as Bombay is concerned, unless the Chief Presidency Magistrate declares a person to be of unsound mind no lunatic asylum would admit him.

Mr. Vice-President: Yes, that is the case in Bengal.

The Honourable Dr. B. R. Ambedkar: And it seems to be the case in Bengal also. It is there in the Lunacy Act.

Now, with regard to the question of crime all that I need say is this that the Drafting Committee, in using the word ' crime ' in that particular article was merely reproducing the provision contained in the Sixth Schedule of the Government of India Act, and I do not think that the Drafting Committee had anything more in mind than what is stated in that article. According to that article, the commission of a crime is not by itself any disqualification. The disqualification is only when a person is punished and detained in imprisonment. It is during the period of imprisonment that he loses the right to vote. That point can be further accommodated when we come to the additional disqualifications mentioned in the article to which Mr. Kamath referred.

Shri H. V. Kamath : Am I to understand that grounds of crimes, corrupt or illegal practices etc. of which a person may be convicted in the past will not act as a disqualification or bar to his registration as a voter ?

The Honourable Dr. B. R. Ambedkar: Yes, and those will be prescribed by Parliament.

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Mr. Vice-President: I know that schoolboys on the eve of the vacation behave not always wisely. The next amendment is that of Pandit Thakur Dass Bhargava. The question is:

" That for the words ' files a declaration ' substitute the words ' expresses the intention '."

But this is covered by what Dr. Ambedkar has accepted.

Then his other amendment is that in paragraph 3, for the words "31st March 1948 " substitute the words of 31st March 1949 ".

The amendment was negatived.

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Mr. Vice-President: Then we come to the amendment of Mr. Nagappa. But that is covered by Dr. Ambedkar's amendment and so it will not be put to vote.

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Mr. Vice-President: The second part has been accepted by Dr. Ambedkar and therefore need not be voted on. Then we come to the third part. But that is also covered by Dr. Ambedkar's amendment.

But he has a further amendment to the effect.

The question is:

" That the word ' permanently ' in the last line of sub-para, (.4) be deleted."

The amendment was negatived.

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Mr. Vice-President : Now, I put the Resolution, as amendment by Dr. Ambedkar's amendments to vote. Does the House want me to read it out ?

Honourable Members: No, no. Mr. Vice-President : So the question is :

" That the Resolution as amended, be accepted. "

* Resolved that instructions be issued forthwith to the authorities concerned for the preparation of electoral rolls and for taking all necessary steps so that elections to the Legislature under the new Constitution may be held as early as possible in the year 1950.

Resolved further that the State electoral rolls be prepared on the basis of the provisions of the new Constitution agreed to by this Assembly and in accordance with the principles hereinafter mentioned, namely :—

(1) That no person shall be included in the electoral roll of any area if he is of unsound mine and stands so declared by a competent court.

(2) That 1st January 1949 shall be the date with reference to which the age of the elecfors is to be determined.

(3) That a person shall not be qualified to be included in the electoral roll for any area unless he has resided in that area for a period of not less than 180

days in the year ending on the 31st March 1948. For the purposes of this paragraph, a person shall be deemed to be resident in any area if he ordinarily resides in that area or has a permanent place of residence therein.

(4) That, notwithstanding anything in paragraph (3) above, a person who has migrated into a Province or according State on account of disturbances or fear of disturbances in his former place of residence shall be entitled to be included in the electoral roll of an area if he files or makes a declaration of his intention to reside permanently in that area.

(Then motion, as amended was adopted.)

[The motion, as amended, was adopted. 5 amendments were rejected.]

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ARTICLE 149 *(Contd.)*

Mr. Vice-President : Now we come to article 149. I think there has been sufficient discussion on this article and Dr. Ambedkar will now reply.

The Honourable Dr. B. R. Ambedkar: Mr. Vice-President, Sir, in reply to the debate on article 149, I wish, first of all, to make clear my position with regard to my own amendment which was No. 2255. I want the permission of the House to withdraw this amendment; and in lieu of that I accept amendment No. 2249, as amended by amendment No. 48 of List II by Mr. Naziruddin Ahmad.

I also accept amendments Nos. 62 and 66 of List IV by Shri T. T. Krishnamachari, amendment No. 2252 as modified by the amendment of Mr. Bhargava and amendment No. 2263 as modified by amendment No. 67 of Shri Shibban Lal Saksena.

Now, Sir, so far as the general debate on the article is concerned, it seems to me that there are only two points that call for reply. The first point is with regard to the census figures to be adopted for the purpose of the new elections. A great deal of argument was concentrated by many speakers on the fact that the census in certain provinces is not accurate and does not represent the true state of affairs so far as the relative proportions of the different communities are concerned. I think there is a great deal of force in such arguments and, if I may say so, there is enough testimony which one can collect from the Census Commissioners' reports themselves to justify that criticism. I had intended to refer to the statements made by the Census Commissioners on this issue. But, as there is no time, I think I had better not refer to them. Further, the large majority of the members who have spoken on this subject know the facts better than I do. I only want to add one thing and that is that if any people have suffered most in the matter of these manipulations of census calculations by reason of political facfors, they are the Scheduled Castes *(Hear, Hear).* In Punjab for instance, the other

communities are trying to eat up the Scheduled Castes in order to augment their strength and to acquire larger representation in the legislature for themselves. These poor people who have been living mostly as landless labourers in villages scattered here and there, with no economic independence, with no support form the authorities,—the police or the magistracy,—have been, by certain powerful communities, either compelled to return themselves as members of that particular community or not to enumerate at the elections at all. The same thing has happened to a large extent, I know, in Bengal. For some reason which I have not been able to understand, a large majority of the Scheduled Castes there refused to return themselves as Scheduled Castes. That fact has been noted by the Census Commissioners themselves. I therefore completely appreciate the points that have been made by various members who spoke on the subject that it would not be fair to take the figures of that census.

An Honourable Member: What about Assam ?

The Honourable Dr. B. R. Ambedkar : It may be true of Assam also. I am not very well acquainted with it. As I said I fully appreciate the point that to take those census figures and to delimit constituencies or altocate seats between the different constituencies and between the majority and minority communities would not be fair. Something will have to be done in order to see that the next election is a proper election, related properly to the population figures of the provinces as well as of the communities. All that I can do at this stage is to give an assurance that I shall communicate these sentiments to those who will be in charge of this matter and I have not the least doubt about it that the matter will be properly attended to.

Sir, if the Members who are interested in it are not satisfied with the assurance that I am giving now, they can at some stage—it is not possible to do it now—move an amendment to article 149 permitting the President to have an interim census, if he deems it necessary taken for the purpose of removing the grievances *to* which they have referred. In fact, I have with me a draft which might be considered at a later date. Some such draft like this may be considered : " Provided further that the initial representation of the several territorial constituencies of the legislative assembly of any State may be determined in such other manner as the President may by order direct." That would be general enough and would deal with the difficulty which has been pointed out.

An Honourable Member : Why do you not move it now ?

The Honourable Dr. B. R. Ambedkar: There is no time for it now. If Members are not prepared to rely upon the assurance given by me some such motion may be moved at the appropriate stage.

With regard to the point raised by my Honourable friend Prof. Saksena in amendment No. 64, I may say that I whole-heartedly support it. I think the proviso he has sought to introduce is a very necessary one. The House will remember that it deals with weight age in representation. We have, in this Constitution, eliminated all sorts of weightages. Weightage to all minorities we have eliminated. Weightage to territories in the representation in the Central Legislature we have eliminated. Weightage between representatives in British India and representatives of Indian States we have eliminated. I think therefore that it is only right that the same principle should apply to representation in legislatures. I therefore accept that amendment.

Sir, I do not think there is any other point worthy of consideration or calling for reply. I therefore recommend to the House the acceptance of article 149, as amended.

Mr. Vice-President : I am now going to put the amendments to vote one by one.

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Mr. Vice-President : Amendment No. 48 of List II. The question is:

" That for amendment No. 2249 of the List of Amendments, the following be substituted:—.

' That in clause (3) of article 149, for the words " last preceding census " the words " last preceding census of which the relevant figures have been published " be substituted'."

Following amendments were adopted by the House :

(1) That with reference to amendments Nos. 2249 and 2250 of the list of amendments in clause (3) of article 149, for the words ' every lakh ' the words ' every seventy-five thousand ' be substituted. "

(2) " With reference to amendment No. 2252 of the list of Amendments, after the words ' autonomous districts of Assam ' the words ' and the constituency comprising the cantonment and municipality of Shillong ' be added.

(3) " With reference to amendments Nos. 2256, 2257 and 2258 of List of Amendments, in the proviso to clause (3) of article 149, for the words ' three hundred ' the words ' five hundred ' be substituted. "

(4) " That after clause (3) of article 149, the following New Clause be inserted :—

' (3-a) The ratio between the number of members to be allotted to each territorial constituency in a State and the population of that constituency as ascertained at the last preceding census of which the relevant figures have been published shall, so far as practicable, be the same throughout the State '. "

The amendment was adopted.

(Article 149, as amended was added to the Constitution.)

[The assembly then adjourned till Monday the 16th May 1949.]

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